



**SPECIAL COMMON COUNCIL MEETING
MARCH 7, 2011
6:00 P.M.**

Regular Meeting	The Special meeting of the Common Council of the City of Middletown was held in the Council Chamber of the Municipal Building on Monday, March 7, 2011 at 6 p.m.
Present	Deputy Mayor Joseph E. Bibisi Council Members: Thomas J. Serra, Ronald P. Klattenberg, Philip J. Pessina, Gerald E. Daley, Robert P. Santangelo, Hope P. Kasper, Grady L. Faulkner, Jr., Deborah A. Kleckowski, David Bauer, and Daniel T. Drew; Sergeant-at-arms Acting Chief of Police Patrick McMahon; and Common Council Clerk Marie O. Norwood.
Absent	Mayor Sebastian N. Giuliano, Council Member James B. Streeto, and Corporation Counsel William Howard.
Also Present	Tom Hartley, Director of Parking, Bill Warner, Director of Planning Conservation and Development, Raymond Santostefano, Director of Parks and Recreation, Guy Russo, Director of Water and Sewer, Philip Cacciola, Director of Consumer Protection, Dr. Joseph Havlicek, Director of Health, Timothy Lynch, Acting City Attorney, Gary Ouellette, Fire Chief, Carl Erlacher, Director of Finance, Debra Milardo Director of Personnel and ten members of the public
Meeting Called to Order	The Acting Chair calls the meeting to order at 6:11 p.m. and asks Councilman Drew to lead the public in the Pledge of Allegiance.
Call of Meeting Read	The Call of the meeting is read and accepted. The Deputy Mayor declares this call a legal call and the meeting a legal meeting.
Workshop Opens	<p>The Acting Chair opens Questions to Directors workshop at 6:13 p.m.</p> <p>Councilman Drew asks for the City Attorney. He asks for an update on the Union and if there will be a potential agreement. Acting City Attorney Lynch states the court is looking for the City, Union and Council to waive the statutory time frame and we are having discussions if we can even legally do that. Attorney Lynch states he doesn't know if you want to deal with the resolution Marie gave you and it might or might not be legal.</p> <p>Councilman Klattenberg asks the timeframe. Councilwoman Kasper thought the statutory requirement is they have until the 21st of March. The Acting City Attorney states it is Saturday, March 12. Councilman Klattenberg states you are saying you don't know whether or not you can statutorily delay this. Acting City Attorney Lynch states it says shall and it is strong language and he doesn't know if you can agree to waive it. Councilman Klattenberg states from your meetings, it won't take place before the 12th. Acting City Attorney Lynch responds it is dependent on the Council. Is it possible the meetings would have taken place and decisions made. It is up to the judge and he would have to try to stop it.</p> <p>Councilman Bibisi states if we have the general consensus not to postpone the voting what are the ramifications if any. Acting City Attorney Lynch responds the court would have to do something this week and he is looking for the Council to wait and I am not sure you can legally wait. It looks like the operation of law takes effect on March 12th.</p>
Noted for the Record	<p>Councilman Daley takes his seat at 6:17 p.m.</p> <p>Councilwoman Kasper states when she looks at the statute it says notification of the Council within 14 days and at the end of the 14 days, there is 30 days and isn't it 44 days involved. Acting City Attorney Lynch states they did the computation. Councilwoman Kasper states they were notified on February 7. Acting City Attorney Lynch states it is when the agreement is reached is when the 14 days count. When they counted the days, it was the 12th. Councilwoman Kasper states it says it is 30 days of the end of the 14 days, that would make it to the 20th. She confirmed it with the Department of Labor. The Acting City Attorney states he defers to the Personnel Director on this.</p>

Councilwoman Kleckowski states she would like to ask why this is even occurring; we are not listed in the lawsuit. Why are we having this discussion. The Acting City Attorney states he doesn't understand why you would do anything.

Councilman Serra states this action relative to the agreement to postpone, did the City agree to this. Acting City Attorney Lynch states there was some discussion on this and there was no decision made. Councilman Serra states there was discussion. We could have a meeting on Thursday to ratify it; the reason this is occurring is I was made aware of this discussion and he reads for the record that this is what he sent to his caucus. He reads the e-mail stating when it is signed then they would postpone. Now you have deemed this is inappropriate. How can the City circumvent or supersede a State statute. How can the Board of Education supersede it and the Council. Acting City Attorney Lynch states we can't and all we can agree is not to enforce against each other. Councilman Serra states they are trying to work this out in good faith. We can vote on it or let it go and it becomes law. What is your recommendation. Acting City Attorney Lynch states he would not want you to act unless you are drawn into the lawsuit. Councilman Serra asks on voting on the contract on the 10th. We don't vote on it, it becomes law. Will this occur with Judge Holzberg. Acting City Attorney Lynch responds it is two issues, the contract and the settlement agreement and I would encourage you to go forward with the meeting on Thursday. Councilman Serra states it was moving forward until you began discussing this and after looking at it how can we supersede the statute. This should not have happened. Attorney Lynch responds everyone was acting in good faith and it came up on Thursday before the workshop and the Council was looking favorable at the contract at the workshop and everyone was trying to do the public work but after looking at this, he doesn't believe we can do it. There is no case law. It says shall so there is no wiggle room. Councilman Serra states for me, this resolution I suggest we pull. You were possibly going to do this. Acting City Attorney Lynch responds because of the judge; we thought we could do this.

Councilman Pessina states if this was to occur and if what the majority side of the Council has suggested, it will be pulled, what would the ramifications be from the Union. It is the third leg of the stool. You have the judge and a civil case and the Council and their duties and no one discussed the ramifications to the Union if they find out if we tried to supersede State statutes. Acting City Attorney Lynch responds the Union wants to be part of the civil case and they were part of the discussion to postpone and they are the third part. Councilman Pessina asks if there would be litigation. Attorney Lynch states they are already in a lawsuit. Councilman Pessina states if the Council went against it, we would be part of the litigation by the Union. Attorney Lynch replies they were involved in the discussions. Councilman Serra responds there was no meeting; it was simply an e-mail. Frankly when this situation happened with the City entertaining this, that is why this occurred. It will be pulled and if you read the e-mail he sent it was when it was affirmed and signed. If the judge was part of that and to be fair, he thought it should be discussed. Councilman Pessina states a lot of the Council members, if we mess with this agreement, it will be a substantial loss to the City and it will hurt Local 466 employees and when it gets to the part this is not agreed to, it will be unfair and I won't be part of that and I thank you for your explanation.

Councilman Klattenberg states you are describing scenarios and options if we were to take action and approve the agreement; it almost assures us of being party to the lawsuit. Acting City Attorney Lynch responds the Board of Education lawyer advised that they were going to make you part of the lawsuit. Any decision Judge Holzberg makes is for members of the lawsuit. Councilman Klattenberg states if we were not to take action and it became affirmed because of no action, are we at arms length for the lawsuit or if we vote on it, do we become a party to it. Attorney Lynch responds you can let it become operational by law and the lawsuit would be a restraining order to keep you from doing something.

Councilman Daley states we need clarity around the date when the contract would take effect by operation of law. We need clarity on that. I read the statute one way. Attorney Lynch responds I read it the same way and the operating date is the 12th. Councilman Daley states when the tentative agreement was reached with negotiators, that tentative agreement is communicated to the Council by the Mayor or designee. He believes that the clock started ticking when it was filed with the Town Clerk. Attorney Lynch states it was reduced to writing on January 27 and it was given to Council on February 10 and it is 30 days from then. Councilman Daley states I would agree to that. He states that no one has signed the agreement. Acting City Attorney Lynch responds no one has. Councilman Daley asks if the Union

can sign the agreement without a vote of their members. Acting City Attorney Lynch states yes; their Attorney does have the authority and he made further changes, but no one has signed it and everyone is stepping back. Councilman Daley states it might make the situation worse. The safest route, the only way the Council can make the situation worse given the consensus, is if we were to vote, we would vote in favor of it and we would make it worse by interjecting ourselves is this by rejecting it or overriding the State statute. If we let it run its course, we would not have any part of it, but the contract would take effect. Acting City Attorney Lynch states I don't know why you would be involved. Councilman Daley states the best interests is that we not vote at all and it demonstrates the Unions ability to work with the City and ensure jobs for its members and I am in favor of it but any vote will only make the situation more complicated. Acting City Attorney Lynch responds that is a good idea. Councilman Daley states let the court decide. Acting City Attorney Lynch states that is a good idea.

Councilman Bauer asks for update from the Locker Room Building Committee; he remembers how it started and he wanted an update on what has been spent and is there some projection of the final cost. Councilman Serra responds for the Committee and states what has been spent is only with the secretary. We appropriated \$25,000 for architectural fees and we as a committee selected an architect so they could move forward and it will cover the cost of the architect and it will be within the parameters of Council bonding. We don't know the numbers yet. Councilman Bauer states we still don't have a firm final cost. Councilman Serra states the architect they hire will. Councilman Bauer asks if the Locker Room Building Committee recommend the Council vote for this. Councilman Serra responds yes.

Councilman Klattenberg asks to address questions to Mr. Santostefano; he would like to ask about the bond request for Middletown Youth Soccer. He states the authorization to assist Middletown Youth Soccer; do you have the resources for managing the fields. Mr. Santostefano states we will only cut the fields and at this juncture it is 64 hours. Councilman Klattenberg states he is asking about the two new fields on Long Hill Road. Mr. Santostefano it is 64 hours a year to mow. Middletown Youth Soccer will take care of all the ancillary work and that has to be explored if Middletown Youth Soccer can line our fields. Councilman Klattenberg states the \$355,000 that will fulfill an obligation with DeRita. Mr. Santostefano responds we will maintain them within our budget. Councilman Klattenberg states it is a mountain of dirt. Mr. Santostefano it will be taken care of. This resolution is from Park and Recreation, but the agreement is between the Mayor and Middletown Youth Soccer. Councilman Klattenberg asks if he has the manpower to handle it. Mr. Santostefano they are maintaining them after the fields are constructed and completed. We will go in with a gang mower and it will be 64 hours of manpower and Middletown Youth Soccer will be doing the lining and any other work. Councilman Klattenberg asks if he recommends they act on this. Mr. Santostefano states he is all for the kids, but down the road we will need more manpower. We are way behind what we should be doing in the City.

Councilman Bibisi states there was a soccer association, they would take over the funding and complete the fields. Mr. Santostefano states yes and it is in the resolution. Councilman Bibisi states once we do the bonding, what happens; Mr. Santostefano states the City will own them.

Councilman Bauer asks he didn't hear completely; the action the bond does, we will have two more fields than we have now. Mr. Santostefano responds correct. Councilman Bauer states the other thing embedded he understands this agreement tears up the 99 year lease. Mr. Santostefano responds that is my understanding. Councilman Bauer states when they give the lease back it is for the property on Long Hill Road and Country Club. Mr. Santostefano replies only Long Hill Road. Councilman Bauer responds it was one lease. Mr. Santostefano replies if you read the language in the resolution, it is Long Hill Road. Councilman Bauer states you have to change the language on the lease.

Noted for the Record

Councilman Faulkner takes his seat at 6:43 p.m.

Mr. Santostefano states they only mentioned Long Hill Road. Councilman Bauer states we only have one lease and he doesn't know how it can be done. The Mayor states he will be glad to send it back. Councilman Bauer responds anecdotally, he hears what you say about the pressures of the maintenance of all the athletic fields. He understands there is a different Union price keeping soccer fields up versus baseball and football fields. He asks for the figures to help them understand the expenses of keeping the soccer program going versus a baseball or softball program. We may be facing circumstances where we need to understand priorities. Mr.

Santostefano states they have all that. Councilman Bauer responds he looks forward to seeing it.

Councilwoman Kasper asks for the Finance Director. Mr. Erlacher comes forward. Councilwoman Kasper states we have \$36,000 for mobile data terminals; are they eligible because they are replacement. Mr. Erlacher states we have the reassurance they are available even though the first time they asked, they were told no.

Motion to Adjourn

The Acting Chair asks if there are any other questions. Seeing no response, he asks for a motion to adjourn. Councilman Serra moves to adjourn and his motion is seconded by Councilman Bauer. There is no discussion and the vote is called. It is unanimous to adjourn and the Acting Chair declares the meeting adjourned at 6:46 p.m.

ATTEST:

MARIE O. NORWOOD
Common Council Clerk